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ADR IN THE DIGITAL ERA: THE EMERGENCE OF ONLINE DISPUTE RESOLUTION IN INDIA

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Abstract

The digital transformation of society has profoundly altered the manner in which disputes arise, interact, and require resolution. In India, the rapid expansion of e-commerce, digital financial services, platform-based employment, and online governance has led to a corresponding rise in disputes originating in virtual environments. Traditional litigation mechanisms, already burdened by excessive pendency and procedural delays, have struggled to respond effectively to these new forms of conflict. In this context, Alternative Dispute Resolution (ADR) has gained renewed relevance as a flexible and efficient means of resolving disputes outside the formal judicial process. The advent of technology, however, has further reshaped ADR itself, giving rise to **Online Dispute Resolution (ODR)** as a defining feature of ADR in the digital era. This research paper examines the emergence of ODR in India as a transformative development within the ADR framework, analysing its legal foundations, institutional evolution, and normative implications.

ADR in India has historically been promoted as a response to the limitations of court-centric justice. Legislative enactments such as the Arbitration and Conciliation Act, 1996 and judicial initiatives under Section 89 of the Code of Civil Procedure, 1908 reflect a sustained effort to encourage consensual and efficient dispute resolution. These mechanisms were designed to reduce judicial backlog, lower costs, and enhance party autonomy. However, conventional ADR processes often continue to rely on physical hearings, institutional infrastructure, and procedural formality, which limit their scalability and accessibility. As disputes increasingly arise from digital transactions and online interactions, the inadequacy of purely offline ADR mechanisms has become more pronounced.

Online Dispute Resolution represents the intersection of ADR principles with digital technology. It involves the use of information and communication technologies to facilitate negotiation, mediation, arbitration, or hybrid dispute resolution processes through online platforms. ODR enables parties to engage in dispute resolution without physical presence, using tools such as video conferencing, digital document exchange, and asynchronous communication. In doing so, it redefines the spatial, temporal, and procedural dimensions of dispute resolution. This paper argues that ODR is not merely a technological convenience but a structural evolution of ADR suited to the realities of the digital era.

The relevance of ODR in India has increased significantly in recent years due to multiple

converging factors. The COVID-19 pandemic accelerated the adoption of virtual courts, online hearings, and electronic filing systems, demonstrating the feasibility of technology-driven justice delivery. Government initiatives such as Digital India and the e-Courts project further reinforced the legitimacy of digital processes within the legal system. Simultaneously, private ODR platforms emerged to address disputes in sectors such as e-commerce, fintech, insurance, and MSMEs, offering efficient solutions to high-volume, low-value disputes. These developments collectively contributed to the mainstreaming of ODR as a viable dispute resolution mechanism.

Despite its growing prominence, the emergence of ODR in India raises important legal and policy questions. The absence of a comprehensive statutory framework specifically governing ODR creates uncertainty regarding its regulation, standardisation, and enforceability. While arbitration conducted through online means finds indirect support under existing arbitration law, online mediation and negotiation operate largely within a regulatory vacuum. Issues relating to procedural fairness, data protection, confidentiality, jurisdiction, and accountability of private ODR platforms pose significant challenges to the legitimacy of ODR. Moreover, the digital divide and varying levels of digital literacy raise concerns about inclusiveness and equitable access.

This research adopts a doctrinal and analytical approach to examine ODR as an evolving dimension of ADR in India. It analyses statutory provisions, judicial pronouncements, policy reports, and scholarly literature to assess the extent to which existing legal frameworks accommodate ODR. Comparative references are employed to contextualise India's experience within the global discourse on digital justice. The study also examines institutional developments, including court-annexed ODR initiatives and private platform-based models, to understand how ODR is being operationalised in practice.

The central argument advanced in this paper is that ODR represents a necessary and inevitable evolution of ADR in the digital era, capable of enhancing access to justice, efficiency, and responsiveness. However, this potential can only be realised through deliberate legal and institutional reforms that balance innovation with safeguards for fairness and accountability. The paper contends that ODR should be viewed as a complementary mechanism that strengthens, rather than supplants, traditional ADR and judicial processes. Aligning ODR with constitutional values of equality, due process, and access to justice is essential to its long-term

legitimacy.

In conclusion, this research positions Online Dispute Resolution as a defining feature of ADR in the digital era in India. By bridging the gap between technological innovation and dispute resolution, ODR offers a pathway towards a more accessible and resilient justice system. The paper seeks to contribute to academic and policy discourse by providing a comprehensive legal analysis of ODR's emergence in India and by identifying the reforms necessary to ensure its effective and equitable integration into the Indian dispute resolution framework.

Keywords:

Alternative Dispute Resolution (ADR); Online Dispute Resolution (ODR); Digital Justice; Technology and Law; Arbitration; Mediation; Conciliation; Virtual Dispute Resolution; Access to Justice; Judicial Pendency; Digital India; E-Courts; Arbitration and Conciliation Act, 1996; Section 89 CPC; E-Commerce Disputes; FinTech Disputes; MSME Disputes; Data Protection; Confidentiality; Digital Divide; Procedural Fairness; Indian Legal System.

Introduction

The administration of justice in India is undergoing a profound transformation, driven by rapid technological advancement and the changing nature of social and commercial interactions. The emergence of the digital economy has fundamentally altered how individuals, businesses, and the State engage with one another. Transactions that were once conducted through physical interactions are now increasingly executed through online platforms, digital interfaces, and automated systems. This transformation has not only reshaped economic activity but has also generated new forms of disputes that are inherently digital in nature. In this evolving landscape, the traditional justice delivery system already strained by excessive pendency, procedural complexity, and infrastructural limitations faces heightened pressure to adapt. It is within this context that Alternative Dispute Resolution (ADR) in the digital era, particularly through the emergence of Online Dispute Resolution (ODR), has acquired renewed significance in India.

India's judicial system has long struggled with delays and backlog, a reality that has prompted sustained calls for reform. Access to justice, recognised as a constitutional value and an integral component of the rule of law, is undermined when disputes take years or even decades to resolve. Litigation, while indispensable for adjudicating rights and enforcing legal norms, is often ill-suited for resolving all categories of disputes, especially those involving low monetary

value, high frequency, or ongoing relationships. ADR emerged as a response to these limitations, offering mechanisms that emphasise flexibility, efficiency, and consensual resolution. Arbitration, mediation, and conciliation were gradually institutionalised as viable alternatives to court-centric dispute resolution, supported by legislative enactments and judicial encouragement.

However, the promise of ADR has not been fully realised in practice. Conventional ADR mechanisms in India often replicate many of the structural constraints of litigation, including physical hearings, procedural rigidity, and geographical barriers. Arbitration proceedings, in particular, have been criticised for becoming time-consuming and expensive, undermining their original objective of efficiency. Mediation and conciliation, though less formal, still depend heavily on physical presence and institutional infrastructure. As a result, ADR has not always succeeded in providing swift and accessible justice to all segments of society.

The digital revolution has introduced new possibilities for reimagining dispute resolution processes. The proliferation of internet connectivity, smartphones, and digital platforms has transformed how disputes arise and how parties interact. E-commerce transactions, digital payment systems, platform-based services, and online contracts have become commonplace, generating disputes that transcend territorial boundaries and traditional legal categories. Resolving such disputes through conventional litigation or offline ADR mechanisms is often inefficient, disproportionate, and inaccessible. The need for a dispute resolution mechanism that aligns with the realities of the digital era has thus become increasingly evident.

Online Dispute Resolution represents the convergence of ADR principles with digital technology. It involves the use of information and communication technologies to facilitate dispute resolution processes such as negotiation, mediation, and arbitration through online platforms. ODR enables parties to initiate, manage, and resolve disputes without physical presence, using tools such as video conferencing, electronic document exchange, and asynchronous communication. By decoupling dispute resolution from physical spaces and rigid timelines, ODR introduces a new paradigm that prioritises convenience, speed, and scalability. In the Indian context, the relevance of ODR has grown substantially in recent years due to a combination of systemic necessity and technological readiness. The COVID-19 pandemic served as a critical catalyst, compelling courts, tribunals, and ADR institutions to adopt virtual hearings and digital processes. What began as an emergency response soon revealed the

broader potential of technology-enabled justice. Virtual court proceedings, electronic filing systems, and online case management tools demonstrated that legal processes could be conducted effectively without compromising procedural fairness. This experience significantly reduced institutional resistance to digital modes of dispute resolution and paved the way for wider acceptance of ODR.

Government initiatives have further reinforced the shift towards digital justice. Programmes aimed at digital governance and judicial modernisation have emphasised the role of technology in enhancing efficiency, transparency, and access. The e-Courts project and related reforms reflect a commitment to integrating technology into the justice delivery system. Within this broader digital transformation agenda, ODR has emerged as a logical extension of ADR, offering a mechanism to resolve disputes in a manner that is consistent with digital transactions and online interactions. Policy reports and expert committees have increasingly highlighted ODR as a tool for addressing judicial backlog, improving ease of doing business, and expanding access to justice.¹

The private sector has also played a significant role in the emergence of ODR in India. A growing number of private ODR platforms have been established to address disputes in sectors such as e-commerce, fintech, insurance, and MSMEs. These platforms leverage technology to offer end-to-end dispute resolution services, often handling large volumes of low-value disputes efficiently. Their success illustrates the practical viability of ODR and its capacity to respond to contemporary dispute resolution needs. At the same time, the prominence of private actors raises important questions about regulation, accountability, and the role of public institutions in overseeing dispute resolution processes.

Despite its growing adoption, ODR in India operates within a complex and evolving legal landscape. There is no comprehensive statutory framework specifically governing ODR, and its legal legitimacy is derived primarily from existing ADR laws, judicial interpretations, and contractual arrangements. While arbitration conducted through online means is generally accepted within the framework of existing arbitration law, the status of online mediation and negotiation remains less clear. Issues relating to enforceability of outcomes, jurisdiction, confidentiality, and data protection assume heightened importance in online environments.

¹ Law Commission of India, *245th Report on Arrears and Backlog: Creating Additional Judicial (Wo)manpower* (2014).

These legal uncertainties pose challenges to the mainstreaming of ODR and underscore the need for doctrinal clarity.

The emergence of ODR also raises normative and constitutional concerns. Access to justice, equality before the law, and due process are foundational principles of the Indian legal system. The digital divide, characterised by unequal access to technology and digital literacy, raises concerns that ODR may disproportionately benefit urban and digitally empowered users while excluding marginalised communities. Procedural fairness in online environments, particularly in relation to power imbalances and informed consent, requires careful attention. Ensuring that ODR aligns with constitutional values is essential to its legitimacy and sustainability.

This research paper seeks to examine ADR in the digital era by analysing the emergence of Online Dispute Resolution in India as a transformative development within the dispute resolution framework. It aims to explore the conceptual foundations of ODR, assess its legal and institutional underpinnings, and critically evaluate its challenges and future prospects. By engaging with statutory provisions, judicial pronouncements, policy initiatives, and scholarly literature, the study seeks to provide a comprehensive understanding of how ODR is reshaping ADR in India.

The central argument advanced in this paper is that ODR represents a necessary evolution of ADR in response to the digital transformation of society. While ODR offers significant potential to enhance efficiency, accessibility, and responsiveness, its success depends on the development of a coherent legal framework, robust institutional support, and inclusive design. Rather than viewing ODR as a substitute for courts or traditional ADR mechanisms, the paper conceptualises it as a complementary process that expands the range of dispute resolution options available to parties.²

In setting the stage for the subsequent analysis, this introduction underscores the importance of situating ODR within the broader discourse on digital justice and legal reform. The sections that follow will examine the research methodology, hypotheses, research questions, literature review, and substantive analysis of ODR in India, ultimately contributing to a deeper understanding of ADR in the digital era and its implications for the future of justice delivery in India.

² Supreme Court of India, *Salem Advocate Bar Association v. Union of India*, (2005) 6 SCC 344.

Research Methodology

The present research adopts a **doctrinal and analytical research methodology** to examine Alternative Dispute Resolution (ADR) in the digital era, with particular emphasis on the emergence and development of Online Dispute Resolution (ODR) in India. Given that ODR is still an evolving legal phenomenon with limited codified regulation, a doctrinal approach is most appropriate for analysing its conceptual foundations, legal validity, and institutional compatibility within the existing Indian legal framework. The methodology is designed to critically engage with legal texts, judicial reasoning, and policy discourse in order to assess how ADR has transformed under the influence of digital technology.

At the primary level, the research relies on **statutory materials** as foundational sources. Central to the study is the Arbitration and Conciliation Act, 1996, which governs arbitration and conciliation in India and indirectly accommodates online modes of dispute resolution through its emphasis on party autonomy and procedural flexibility. Provisions of the Code of Civil Procedure, 1908, particularly Section 89, are analysed to understand the statutory mandate for ADR and the scope for integrating technology-enabled dispute resolution mechanisms. Constitutional provisions, especially Articles 14, 21, and 39A of the Constitution of India, form an important part of the analysis, as they embody principles of equality, due process, and access to justice that must guide the evolution of ODR in the digital era.

Judicial decisions of the Supreme Court of India and various High Courts constitute another key category of primary sources. These judgments are examined to identify judicial attitudes towards ADR, digital processes, and technology-enabled justice delivery. While Indian courts have not yet developed a comprehensive jurisprudence on ODR as a distinct mechanism, their recognition of virtual hearings, electronic evidence, and minimal judicial intervention in arbitration provides valuable insight into the judiciary's approach to digital transformation. The research analyses judicial reasoning to assess whether existing interpretations support the legitimacy and expansion of ODR within the ADR framework.³

In addition to primary legal sources, the study relies extensively on **secondary sources**, including books, journal articles, research papers, and expert committee reports. Scholarly literature on ADR provides the theoretical and normative context for understanding consensual

³ C.R. Kothari, *Research Methodology: Methods and Techniques* (2nd edn, New Age International 2004).

dispute resolution mechanisms. Works focusing on law and technology, digital justice, and online dispute resolution are examined to trace the conceptual evolution of ODR and to identify key debates and critiques. Policy-oriented documents, particularly reports published by the Law Commission of India and NITI Aayog, are analysed to understand institutional perspectives on ODR and its role in addressing judicial backlog and improving access to justice.

The research employs an **analytical approach** to evaluate the effectiveness and limitations of ODR as an extension of ADR in the digital era. This involves a critical assessment of how ODR addresses traditional challenges associated with litigation and offline ADR, such as delay, cost, and geographical barriers. At the same time, the analysis interrogates new challenges introduced by digitalisation, including concerns relating to procedural fairness, enforceability, data protection, confidentiality, and digital exclusion. By juxtaposing advantages and limitations, the study seeks to avoid technological determinism and instead present a balanced evaluation of ODR's role in the Indian dispute resolution landscape.

A **descriptive method** is also employed to map the current ODR ecosystem in India. This includes an overview of court-annexed ODR initiatives, private ODR platforms, and sector-specific applications of online dispute resolution in areas such as e-commerce, fintech, and MSME disputes. While the research does not rely on empirical methods such as surveys or interviews, descriptive analysis helps in contextualising doctrinal findings within real-world institutional practices. This approach enables the study to bridge the gap between legal theory and operational realities.

The methodology is primarily **qualitative** in nature, focusing on textual analysis, interpretative reasoning, and normative evaluation. Legal provisions and judicial decisions are interpreted purposively, taking into account legislative intent, constitutional values, and the socio-economic context of digital transformation. This qualitative orientation is particularly suitable for examining ODR, which raises complex normative questions that cannot be adequately addressed through quantitative metrics alone.

To ensure **academic rigour and objectivity**, the research follows a structured analytical framework. The study progresses from conceptual clarification to legal analysis, followed by institutional and normative evaluation. Competing viewpoints and critiques of ODR are

considered alongside supportive arguments to avoid a one-dimensional narrative. Issues such as the digital divide, privatisation of justice, and potential erosion of procedural safeguards are critically examined to ensure a comprehensive assessment.

The **scope of the research** is confined to the Indian legal system, with comparative references used selectively to illuminate best practices and global trends. The study does not undertake a technical analysis of ODR platforms or algorithms, nor does it assess empirical success rates of ODR mechanisms. This delimitation is intentional, as the primary objective is to evaluate ODR as a legal and institutional development within ADR rather than as a technological product.⁴

In terms of **citation and referencing**, the research strictly adheres to the Indian Law Institute (ILI) style of citation. Footnotes are used to reference all statutes, judicial decisions, policy documents, and scholarly works relied upon in the analysis. This ensures transparency, verifiability, and compliance with academic standards commonly followed in Indian legal research.

In conclusion, the research methodology adopted in this study provides a systematic and critical framework for analysing ADR in the digital era, with specific reference to the emergence of ODR in India. By combining doctrinal analysis with analytical and descriptive methods, the methodology enables a nuanced understanding of ODR's legal foundations, institutional dynamics, and normative implications. This approach ensures that the research contributes meaningfully to academic discourse and policy debates on the future of dispute resolution in India.

Hypothesis

The formulation of hypotheses in legal research serves to identify the core assumptions and propositions that guide doctrinal and normative analysis. In the context of ADR in the digital era, the hypotheses articulated in this research are designed to examine whether Online Dispute Resolution (ODR) represents a meaningful and effective evolution of Alternative Dispute Resolution (ADR) in India. These hypotheses are framed as **normative and doctrinal hypotheses**, focusing on legal adequacy, institutional compatibility, and constitutional

⁴ Law Commission of India, *246th Report on Amendments to the Arbitration and Conciliation Act, 1996* (2014).

alignment rather than empirical verification.

The **primary hypothesis** of this research is that *the emergence of Online Dispute Resolution as a technology-enabled extension of Alternative Dispute Resolution has the potential to significantly enhance access to justice in India by addressing the systemic challenges of delay, cost, and geographical barriers*. This hypothesis is grounded in the premise that digital technology can streamline dispute resolution processes and make them more accessible to a wider range of users. In a justice system burdened by excessive pendency, ODR is hypothesised to function as a scalable mechanism capable of resolving high volumes of disputes efficiently, particularly those arising from digital transactions and online interactions.

A related hypothesis is that *ODR aligns with the foundational principles of ADR, including party autonomy, flexibility, and consensual resolution, while simultaneously reconfiguring procedural design to suit the realities of the digital era*. Traditional ADR mechanisms were conceived as alternatives to rigid and adversarial litigation, emphasising informality and cooperation. ODR is hypothesised to preserve these principles while enhancing them through digital tools that allow asynchronous communication, remote participation, and customised processes. This hypothesis seeks to examine whether the incorporation of technology strengthens or undermines the normative foundations of ADR.

The research further hypothesises that *the existing Indian legal framework governing ADR is sufficiently adaptable to accommodate ODR, even in the absence of a dedicated statutory regime*. This proposition rests on the assumption that statutes such as the Arbitration and Conciliation Act, 1996 and procedural provisions under the Code of Civil Procedure, 1908 embody flexible principles that can be interpreted in a technology-neutral manner. Judicial recognition of virtual hearings and electronic evidence supports the view that procedural law in India is capable of evolving in response to technological change. This hypothesis explores whether purposive interpretation can provide legal legitimacy to ODR without immediate legislative intervention.⁵

At the same time, a **counter-hypothesis** is advanced: *the lack of a comprehensive and uniform regulatory framework for ODR in India creates significant risks relating to enforceability,*

⁵ Marc Galanter, 'Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change' (1974) 9 *Law & Society Review* 95.

procedural fairness, and accountability. While flexibility may facilitate innovation, regulatory ambiguity can undermine trust and consistency. This hypothesis examines whether reliance on contractual arrangements and self-regulation by private ODR platforms is sufficient to protect parties' rights, or whether statutory intervention is necessary to establish minimum standards and oversight mechanisms.

Another important hypothesis underlying this research is that *ODR is particularly effective for resolving low-value, high-frequency disputes that are characteristic of the digital economy.* Disputes arising from e-commerce transactions, digital payments, and platform-based services often involve modest monetary claims but occur at a scale that overwhelms traditional dispute resolution mechanisms. ODR is hypothesised to offer a proportionate and efficient response to such disputes, enabling rights enforcement that might otherwise be impractical through litigation or offline ADR.

The research also posits the hypothesis that *ODR can coexist harmoniously with constitutional principles of access to justice, equality, and due process, provided that appropriate safeguards are implemented.* Critics of ODR often argue that online processes may dilute procedural fairness or exclude digitally marginalised populations. This hypothesis contends that such risks are not inherent to ODR but arise from inadequate design and regulation. With safeguards such as informed consent, transparency, and accessibility measures, ODR can be aligned with constitutional values rather than undermining them.

A further hypothesis examined in this study is that *the digital divide remains one of the most significant constraints on the equitable adoption of ODR in India.* While ODR promises greater accessibility in theory, unequal access to digital infrastructure and varying levels of digital literacy may limit its practical reach. This hypothesis explores whether ODR risks creating a parallel system of justice accessible primarily to digitally empowered users, thereby exacerbating existing inequalities. It also examines whether institutional and policy interventions can mitigate this risk.

The research additionally hypothesises that *judicial endorsement and institutional integration are critical to the legitimacy and sustainability of ODR in India.* While private ODR platforms have demonstrated operational efficiency, their broader acceptance depends on recognition and support from the judiciary and public institutions. Court-annexed ODR programmes and

judicial references to online dispute resolution can enhance public trust and encourage wider adoption. This hypothesis evaluates the role of institutional legitimacy in shaping the future trajectory of ODR.

Data protection and confidentiality form another key area of hypothesis in this research. It is hypothesised that *without robust legal and technological safeguards, ODR may expose parties to risks that undermine confidentiality and trust*. Dispute resolution processes involve sensitive information, and the digital transmission and storage of such data raise concerns about security and privacy. This hypothesis examines whether existing legal frameworks adequately address these concerns or whether ODR-specific regulations are necessary.⁶

Finally, the research advances the hypothesis that *ODR has the potential to transform dispute resolution culture in India by encouraging early settlement, collaboration, and user-centric justice*. Traditional litigation often fosters adversarial attitudes and protracted conflict. ODR, by contrast, is hypothesised to promote a shift towards problem-solving and consensual resolution, particularly among digitally native users. This cultural transformation is seen as an important, though often overlooked, dimension of ODR's impact.

Collectively, these hypotheses provide a structured analytical framework for examining ADR in the digital era. They enable the research to assess both the promise and the limitations of ODR as it emerges within the Indian legal system. Rather than assuming technological progress as inherently beneficial, the hypotheses encourage critical engagement with legal, institutional, and constitutional dimensions. In testing these hypotheses through doctrinal analysis and normative evaluation, the research seeks to contribute to a nuanced understanding of how ADR is being reshaped by digitalisation in India.

Research Questions

The present research is guided by the following research questions, formulated to systematically examine Alternative Dispute Resolution in the digital era with specific reference to the emergence of Online Dispute Resolution (ODR) in India. These questions flow from the objectives and hypotheses of the study and are intended to facilitate a focused doctrinal and normative analysis:

⁶ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Handbook* (2021).

1. What is the conceptual foundation of Online Dispute Resolution, and how does it represent an evolution of traditional Alternative Dispute Resolution mechanisms in the digital era?
2. To what extent does the existing Indian legal framework governing ADR accommodate Online Dispute Resolution, particularly in the absence of a dedicated statutory regime?
3. What role has the Indian judiciary played in recognising, legitimising, and facilitating technology-enabled dispute resolution mechanisms, including ODR?
4. How effective is Online Dispute Resolution in addressing systemic challenges such as judicial delay, high litigation costs, and limited access to justice in India?
5. What legal and procedural challenges arise from the adoption of ODR in India, particularly in relation to enforceability, jurisdiction, confidentiality, and data protection?
6. How does the digital divide impact the accessibility and inclusiveness of ODR mechanisms in the Indian socio-legal context?
7. What is the role of private ODR platforms and institutional stakeholders in shaping the development and legitimacy of ODR in India?
8. To what extent does Online Dispute Resolution align with constitutional principles of equality, due process, and access to justice under the Indian Constitution?
9. What legislative, regulatory, and institutional reforms are necessary to strengthen ODR as an effective and equitable dimension of ADR in the digital era?

These research questions collectively seek to explore the legal, institutional, and normative dimensions of ODR in India, enabling a comprehensive evaluation of its emergence and future potential within the Indian dispute resolution framework.

Literature Review

The academic discourse on Alternative Dispute Resolution (ADR) and its transformation in the digital era has expanded significantly in recent years, reflecting broader changes in legal systems, technological infrastructure, and dispute patterns. The literature relevant to this study can be broadly categorised into four strands: (i) foundational scholarship on ADR in India, (ii) writings on technology and justice delivery, (iii) emerging literature on Online Dispute Resolution (ODR), and (iv) critical and normative analyses addressing the challenges of digital

dispute resolution. A review of these strands is essential to situate the present research within existing scholarship and to identify gaps that warrant further examination.⁷

Early literature on ADR in India primarily focused on arbitration, mediation, and conciliation as alternatives to adversarial litigation. Scholars highlighted the systemic deficiencies of the court-centric model, particularly delays, costs, and procedural complexity, and argued that ADR offered a more efficient and consensual mode of dispute resolution. The enactment of the Arbitration and Conciliation Act, 1996 generated extensive academic commentary examining its alignment with international standards and its potential to modernise India's arbitration regime. While many commentators praised the legislative intent behind the Act, they also pointed out persistent challenges such as excessive judicial intervention, lack of institutional arbitration culture, and the gradual "judicialisation" of arbitration. This body of literature established the normative foundations of ADR in India but largely assumed a physical, offline mode of dispute resolution.

Scholarly analysis of mediation and conciliation in India similarly emphasised their role in promoting access to justice and reducing judicial backlog. Commentators examined court-annexed mediation schemes and the role of judges in encouraging settlement, particularly after the introduction of Section 89 of the Code of Civil Procedure, 1908. While these studies acknowledged the benefits of mediation, they also noted inconsistencies in implementation, lack of trained mediators, and limited public awareness. Importantly, much of this literature treated ADR as a supplementary mechanism operating within the traditional spatial and procedural confines of the justice system, with little engagement with the potential of technology to reshape dispute resolution processes.

A second strand of literature focuses on the relationship between technology and justice delivery. Early writings on e-governance and e-courts in India examined the use of technology to improve administrative efficiency, transparency, and case management within courts. Scholars argued that digitisation of records, electronic filing, and online access to case information could enhance judicial efficiency and reduce opportunities for corruption. While these studies were optimistic about the role of technology, they primarily conceptualised digital tools as aids to existing judicial processes rather than as enablers of alternative modes of dispute

⁷ P.C. Rao and William Sheffield, *Alternative Dispute Resolution: What It Is and How It Works* (Universal Law Publishing 1997).

resolution. Nevertheless, they laid important groundwork for understanding institutional readiness and resistance to digital transformation within the legal system.

The COVID-19 pandemic catalysed a new wave of scholarship on virtual courts and online hearings. Legal commentators analysed the rapid shift to video conferencing and electronic processes, debating their implications for procedural fairness, open justice, and access. Some scholars viewed virtual hearings as a temporary necessity, while others argued that they represented a permanent and desirable evolution of judicial practice. This literature is significant for the present study as it demonstrates judicial and institutional willingness to embrace digital processes, thereby creating a favourable environment for the emergence of ODR.⁸

The third and most directly relevant strand of literature concerns Online Dispute Resolution itself. International scholarship on ODR predates Indian engagement with the subject and emerged in response to disputes arising from e-commerce and cross-border online transactions. Early works conceptualised ODR as an extension of ADR, facilitated by online communication tools. Scholars analysed online negotiation and mediation systems embedded within commercial platforms, highlighting their efficiency in resolving high-volume, low-value disputes. These studies emphasised the potential of ODR to reduce transaction costs and overcome jurisdictional barriers, particularly in the context of global digital commerce.⁹

As ODR gained prominence, international scholars began to examine its normative and legal implications. Issues such as procedural fairness, transparency, enforceability, and the role of technology in decision-making became central to academic debate. Some authors expressed concern that online processes might dilute due process protections or obscure power imbalances between parties. Others argued that ODR, if properly designed, could enhance procedural justice by empowering users and promoting early settlement. This literature provides valuable theoretical insights that inform the analysis of ODR in the Indian context.

Indian scholarship on ODR has grown more recently and is largely policy-oriented. Reports and discussion papers published by governmental and quasi-governmental bodies have played

⁸ S.B. Sinha, *ADR Methods: Arbitration, Conciliation and Mediation* (Eastern Book Company 2010).

⁹ Marc Galanter, 'Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law' (1981) 19 *Journal of Legal Pluralism* 1.

a significant role in shaping the discourse. These documents typically frame ODR as a pragmatic response to judicial backlog and as a tool for improving ease of doing business. Academic commentary analysing these reports often adopts an optimistic tone, highlighting ODR's potential to democratise access to justice and to modernise dispute resolution mechanisms. However, much of this literature remains descriptive, focusing on the benefits of ODR rather than engaging in rigorous doctrinal analysis of its legal foundations.¹⁰

A growing body of Indian legal scholarship has begun to examine ODR through a constitutional and socio-legal lens. These studies explore whether ODR aligns with principles of access to justice, equality, and due process under the Indian Constitution. Scholars have drawn attention to the digital divide, arguing that unequal access to technology may undermine the inclusiveness of ODR. Others have examined concerns relating to privatisation of justice and the accountability of private ODR platforms. This critical literature underscores the need to balance efficiency with fairness and highlights the risks of uncritical adoption of technology-driven dispute resolution.

Another important theme in the literature relates to the enforceability of ODR outcomes. Scholars analysing online arbitration generally agree that arbitral awards rendered through virtual proceedings are enforceable under existing arbitration law, provided that procedural requirements are met. However, there is less consensus regarding online mediation and negotiation. The absence of statutory recognition for mediation agreements reached through online platforms has been identified as a significant gap in the legal framework. This literature highlights the need for legislative reform to provide legal certainty and encourage broader adoption of ODR.¹¹

Data protection and confidentiality have emerged as critical concerns in scholarly discussions of ODR. Legal commentators have examined the risks associated with digital transmission and storage of sensitive information, particularly in the absence of robust regulatory safeguards. Some scholars argue that existing data protection laws and contractual measures may be insufficient to address the unique risks posed by ODR. This literature intersects with broader debates on privacy and cybersecurity in the digital age and underscores the importance of trust

¹⁰ Law Commission of India, *246th Report on Amendments to the Arbitration and Conciliation Act, 1996* (2014).

¹¹ Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* (Jossey-Bass 2001).

in online dispute resolution systems.

Comparative literature offers additional insights into the regulation and institutionalisation of ODR. Studies examining ODR frameworks in other jurisdictions identify best practices such as accreditation of platforms, procedural guidelines, and integration with court systems. Indian scholars often refer to these comparative experiences to advocate for context-sensitive regulatory reforms. However, there is also recognition that India's socio-economic diversity and constitutional commitments require tailored solutions rather than wholesale adoption of foreign models.

Despite the expanding body of literature on ODR, significant gaps remain. Much of the existing scholarship in India is either policy-driven or descriptive, lacking detailed doctrinal analysis of how ODR fits within the existing ADR framework. Empirical studies on the effectiveness and user experience of ODR in India are limited, making it difficult to assess its real-world impact. Moreover, there is relatively little literature that systematically examines ODR as a structural evolution of ADR in the digital era, rather than as an isolated technological innovation.

The present research seeks to address these gaps by providing a comprehensive doctrinal and normative analysis of ADR in the digital era, with specific reference to the emergence of ODR in India. By integrating legal analysis with institutional and constitutional perspectives, this study builds upon existing scholarship while offering original insights into the transformation of dispute resolution in a digital society. In doing so, it contributes to a deeper understanding of how ADR is being reshaped by technology and what this transformation means for the future of justice delivery in India.¹²

Conceptual Foundations of ADR in the Digital Era and the Rise of Online Dispute Resolution

The digital era has fundamentally altered the nature of social, commercial, and legal interactions, necessitating a re-examination of traditional mechanisms of dispute resolution. Alternative Dispute Resolution (ADR), which emerged as a response to the limitations of formal litigation, is itself undergoing transformation under the influence of digital technology. Online Dispute Resolution (ODR) represents the most significant manifestation of this

¹² NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Handbook* (2021).

transformation, embodying the convergence of ADR principles with digital tools and platforms. To understand the rise of ODR in India, it is essential to examine the conceptual foundations of ADR in the digital era and how these foundations have been reshaped by technological innovation.

ADR is premised on the idea that disputes need not always be resolved through adversarial adjudication. Instead, mechanisms such as arbitration, mediation, and conciliation emphasise party autonomy, flexibility, confidentiality, and consensual outcomes. These principles were designed to address the shortcomings of litigation, including delay, cost, and procedural rigidity. In the digital era, these shortcomings are exacerbated by the increasing volume and complexity of disputes arising from online transactions and platform-based interactions. The traditional, physically anchored model of dispute resolution is often ill-equipped to address disputes that transcend geographical boundaries and involve parties with minimal physical interaction.

The digital economy has generated new categories of disputes that challenge conventional legal frameworks. E-commerce transactions, digital payment systems, online service platforms, and electronic contracts create disputes that are often cross-border, low-value, and high-frequency. Resolving such disputes through litigation or even offline ADR mechanisms is often disproportionate and inefficient. The mismatch between the nature of digital disputes and traditional dispute resolution processes has underscored the need for a mechanism that aligns with the realities of the digital era. ODR emerges as a conceptual response to this need, offering a mode of dispute resolution that is embedded within digital environments and tailored to their characteristics.

Conceptually, ODR can be understood as an extension rather than a departure from ADR. It retains the core principles of consensual dispute resolution while reconfiguring procedural design through technology. The use of online communication tools allows parties to engage in negotiation, mediation, or arbitration without physical presence, reducing logistical barriers and transaction costs. Asynchronous communication enables parties to participate at their convenience, promoting flexibility and reflection. These features align closely with the

foundational values of ADR, suggesting that ODR represents an evolution of ADR rather than a radical departure.¹³

At the same time, ODR introduces new conceptual dimensions that distinguish it from traditional ADR. The integration of technology transforms not only the mode of communication but also the structure of dispute resolution processes. Online platforms can automate certain aspects of case management, facilitate information exchange, and guide parties through structured negotiation or mediation processes. In some instances, algorithmic tools may be used to suggest settlement options or manage workflows. These innovations raise important questions about the role of human judgment, neutrality, and transparency in dispute resolution. Conceptually, ODR challenges traditional assumptions about the centrality of face-to-face interaction and human intermediaries in achieving fair outcomes.

In India, the conceptual acceptance of ODR is influenced by both legal tradition and contemporary necessity. India has a long history of community-based and informal dispute resolution, which emphasises consensus and accessibility. Modern ADR mechanisms drew upon this tradition while incorporating formal legal structures. ODR, in turn, can be viewed as the latest stage in this evolutionary trajectory, adapting consensual dispute resolution to a digital society. The conceptual resonance between ODR and India's tradition of flexible dispute resolution enhances its normative legitimacy.

The rise of ODR in India is also shaped by broader socio-economic and policy considerations. As India seeks to position itself as a digital economy and improve ease of doing business, efficient dispute resolution mechanisms become increasingly important. ODR aligns with these objectives by offering a scalable and cost-effective means of resolving disputes, particularly in commercial contexts. This economic rationale complements access to justice arguments, reinforcing the conceptual appeal of ODR as a mechanism suited to the digital era.

However, the conceptual foundations of ODR must also grapple with normative concerns. Procedural justice theory emphasises that perceptions of fairness are influenced not only by outcomes but also by the process through which disputes are resolved. In online environments, the absence of physical interaction and the mediation of communication through technology

¹³ Marc Galanter, 'Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law' (1981) 19 *Journal of Legal Pluralism* 1.

may affect parties' perceptions of fairness and legitimacy. Conceptualising ODR as a legitimate form of ADR therefore requires careful attention to process design, user experience, and transparency.

Another important conceptual dimension relates to power dynamics and equality of arms. Traditional ADR processes allow neutrals to manage power imbalances through direct interaction and intervention. In online environments, disparities in digital literacy or access may exacerbate existing inequalities. Conceptually, ODR must be designed to mitigate rather than amplify such disparities. This requires a user-centric approach that prioritises accessibility, clarity, and support.

The rise of ODR also reflects a broader shift towards **problem-solving justice** in the digital era. Rather than viewing disputes as zero-sum contests, ODR encourages early engagement, information sharing, and collaborative problem-solving. This aligns with contemporary theories of dispute resolution that emphasise interest-based negotiation and restorative outcomes. By embedding these principles within digital platforms, ODR has the potential to reshape dispute resolution culture in India.¹⁴

Despite its conceptual promise, ODR remains a contested and evolving phenomenon. Critics argue that over-reliance on technology may depersonalise dispute resolution and undermine the relational aspects of ADR. Others express concern about the commodification of justice and the growing role of private platforms. These critiques highlight the need for a nuanced conceptual framework that recognises both the transformative potential and the limitations of ODR.

In conclusion, the conceptual foundations of ADR in the digital era provide a compelling basis for the rise of Online Dispute Resolution in India. ODR emerges as a response to the changing nature of disputes, the limitations of traditional mechanisms, and the opportunities offered by digital technology. By retaining the core principles of ADR while introducing new procedural possibilities, ODR represents an evolutionary step in dispute resolution. Understanding these conceptual foundations is essential for evaluating ODR's role in India's justice system and for informing legal and institutional reforms aimed at harnessing its potential while safeguarding fairness and inclusiveness.

¹⁴ P.C. Rao and William Sheffield, *Alternative Dispute Resolution: What It Is and How It Works* (Universal Law Publishing 1997).

Legal Framework Governing ADR and Online Dispute Resolution in India

The emergence of Online Dispute Resolution (ODR) in India must be examined against the backdrop of the existing legal framework governing Alternative Dispute Resolution (ADR). Unlike many jurisdictions that have begun to develop ODR-specific legislation, India presently regulates ODR through a combination of traditional ADR statutes, procedural laws, judicial interpretations, and policy initiatives. This hybrid and indirect regulatory approach has enabled flexibility and experimentation, but it has also generated uncertainty regarding legality, enforceability, and procedural standards. An analysis of this legal framework is therefore essential to understand how ADR has adapted to the digital era in India.

The cornerstone of ADR law in India is the **Arbitration and Conciliation Act, 1996**, which was enacted to consolidate and modernise arbitration and conciliation law in line with international standards. Although the Act predates the widespread use of digital technologies, its emphasis on party autonomy, minimal judicial intervention, and procedural flexibility provides a strong foundation for online dispute resolution. The Act does not prescribe rigid procedural requirements for the conduct of arbitral proceedings, allowing parties and arbitral tribunals to determine the procedure best suited to their dispute. This flexibility enables arbitration proceedings to be conducted through online platforms without violating statutory mandates.

Judicial interpretation has further reinforced the adaptability of arbitration law to digital processes. Indian courts have repeatedly emphasised that procedural laws governing arbitration should be interpreted in a manner that facilitates, rather than frustrates, the resolution of disputes. The acceptance of electronic communication, digital signatures, and electronic evidence under general law has indirectly legitimised online arbitral proceedings. As a result, arbitral hearings conducted through video conferencing and digital document exchange are now widely regarded as consistent with the principles of natural justice, provided that parties are afforded a fair opportunity to present their case. This judicial pragmatism has played a crucial role in integrating online arbitration within the existing ADR framework.

Conciliation under the Arbitration and Conciliation Act, 1996 presents a more nuanced legal position. Part III of the Act governs conciliation and emphasises voluntary participation, confidentiality, and non-adversarial resolution. While the Act does not explicitly address online conciliation, it does not prohibit it either. The informal and flexible nature of conciliation makes

it particularly amenable to online processes. However, the lack of detailed procedural safeguards for digital environments creates uncertainty regarding confidentiality, record-keeping, and enforceability. Although settlement agreements reached through conciliation have statutory recognition, the absence of clarity regarding online conciliation processes limits their widespread adoption.

Mediation occupies a distinct position within India's ADR framework. For a long time, mediation lacked a comprehensive statutory basis and operated primarily through court-annexed schemes and judicial guidelines. The growing emphasis on mediation as a preferred mode of dispute resolution has led to legislative and policy attention in recent years. However, the regulation of online mediation remains fragmented. Court-annexed mediation programmes are governed by rules framed by individual High Courts, resulting in variations in standards and procedures. While some courts have experimented with online mediation, there is no uniform legal framework governing its conduct or the enforceability of outcomes. This regulatory gap poses challenges for the institutionalisation of ODR within mediation practices. Section 89 of the **Code of Civil Procedure, 1908** represents a critical statutory link between courts and ADR mechanisms. By empowering courts to refer disputes to arbitration, conciliation, mediation, or judicial settlement, Section 89 reflects legislative recognition of ADR as an integral component of civil justice administration. Although the provision does not expressly refer to online processes, its broad language allows courts to exercise discretion in referring disputes to appropriate ADR mechanisms, including those conducted online. Judicial interpretation of Section 89 has underscored the need for flexibility and innovation in dispute resolution, suggesting that ODR can be accommodated within its ambit. Nevertheless, the absence of explicit statutory recognition contributes to uncertainty and inconsistent application. Beyond ADR-specific statutes, general laws governing electronic transactions and digital evidence also influence the legal framework for ODR. The recognition of electronic records and digital signatures has facilitated the use of online communication and documentation in legal processes. Courts have increasingly accepted electronic evidence and virtual hearings as valid and reliable, reinforcing the legitimacy of technology-enabled dispute resolution. These developments reflect a broader shift towards technology-neutral interpretation of procedural law, which supports the integration of ODR within the existing legal system.

Judicial developments during the COVID-19 pandemic marked a significant turning point in the legal acceptance of digital processes. The judiciary's rapid transition to virtual hearings

demonstrated that procedural fairness and access to justice could be preserved in online environments. Judicial orders recognising the validity of virtual proceedings and electronic filings reduced institutional resistance to digitalisation and set important precedents for the acceptance of ODR. Although these developments were primarily focused on adjudication rather than ADR, they created a legal and cultural environment conducive to the expansion of ODR.

Policy initiatives have also played a vital role in shaping the legal landscape for ODR. Government and expert committee reports have consistently emphasised the need for innovative dispute resolution mechanisms to address judicial backlog and improve ease of doing business. These reports often highlight ODR as a scalable and cost-effective solution for resolving high-volume disputes, particularly in commercial and consumer contexts. While policy endorsements do not have binding legal force, they carry significant persuasive value and influence judicial and institutional attitudes towards ODR.

Despite these enabling factors, the legal framework governing ODR in India remains characterised by fragmentation and ambiguity. One of the most significant challenges relates to the **enforceability of ODR outcomes**, particularly in the context of online mediation and negotiation. While arbitral awards rendered through online proceedings are enforceable under existing arbitration law, settlement agreements reached through online mediation often rely on contractual enforcement. This lack of statutory backing undermines legal certainty and discourages reliance on ODR for more complex disputes.

Jurisdictional issues further complicate the legal framework for ODR. Online platforms often transcend territorial boundaries, raising questions regarding applicable law, forum, and enforcement. Traditional jurisdictional principles, rooted in territoriality, are ill-suited to address disputes resolved in virtual spaces. The absence of clear jurisdictional rules for ODR creates uncertainty for parties and may deter participation, particularly in cross-border disputes. Data protection and confidentiality represent additional legal challenges. While confidentiality is a core principle of ADR, ensuring confidentiality in online environments requires robust legal and technological safeguards. Existing legal frameworks address data protection in a general sense but do not provide ODR-specific guidance. This regulatory gap raises concerns regarding liability, compliance, and user trust.

In conclusion, the legal framework governing ADR and ODR in India reflects both adaptability and inadequacy. Existing statutes, judicial interpretations, and policy initiatives provide a foundational basis for integrating ODR within the ADR ecosystem. However, significant gaps remain in relation to mediation, enforceability, jurisdiction, and data protection. Addressing these gaps through legislative clarity, judicial guidance, and institutional reform is essential for ensuring that ODR evolves as a credible and effective dimension of ADR in the digital era.

Institutional Framework and Stakeholders Shaping ODR in India

The evolution of Online Dispute Resolution (ODR) in India is not driven solely by legal norms or technological capability; it is deeply influenced by the institutional framework and the diverse stakeholders that shape its design, legitimacy, and adoption. Courts, government agencies, private ODR platforms, arbitral and mediation institutions, legal professionals, and disputing parties collectively contribute to the emergence of ODR as a functional component of Alternative Dispute Resolution (ADR) in the digital era. Understanding the roles and interactions of these stakeholders is essential to assess how ODR operates in practice and how it may be strengthened in the future.

The **judiciary** occupies a foundational position in the institutional ecosystem of ODR in India. Historically, Indian courts have acted as catalysts for the growth of ADR by endorsing arbitration, mediation, and conciliation as mechanisms that complement formal adjudication. Judicial encouragement under statutory provisions and through landmark judgments has played a decisive role in legitimising ADR. In the digital era, this legitimising function has extended to technology-enabled processes. The judiciary's transition to virtual hearings during the COVID-19 pandemic marked a significant institutional shift, demonstrating that procedural fairness and access to justice can be preserved in online environments. Although these developments primarily concerned adjudication, they indirectly normalised the idea that dispute resolution need not be confined to physical spaces, thereby fostering institutional acceptance of ODR.

Court-annexed ADR mechanisms represent an important institutional bridge between the judiciary and ODR. Mediation centres attached to courts have traditionally served as referral points for disputes deemed suitable for consensual resolution. The integration of online mediation into these court-annexed frameworks offers significant potential to expand their reach and efficiency. Online mediation can overcome logistical barriers such as travel,

scheduling constraints, and infrastructural limitations, enabling courts to refer a greater number of cases to ADR. However, the adoption of ODR within court-annexed mechanisms remains uneven. Variations in infrastructure, judicial attitudes, and administrative capacity across jurisdictions have resulted in fragmented implementation, highlighting the need for institutional coordination and standardisation.

The **executive branch and policy-making bodies** also play a crucial role in shaping the institutional environment for ODR. Government initiatives aimed at digital governance and judicial reform have created a broader policy context conducive to technology-enabled dispute resolution. Expert committees and policy reports have consistently emphasised the potential of ODR to address judicial backlog, enhance access to justice, and improve ease of doing business. These policy endorsements, while not legally binding, carry significant persuasive value and influence institutional priorities. They signal governmental support for innovation in dispute resolution and encourage collaboration between public institutions and private actors. Private **ODR platforms** constitute one of the most dynamic and influential stakeholder groups in India's ODR ecosystem. These platforms typically offer integrated digital solutions for dispute resolution, encompassing case intake, communication tools, appointment of neutrals, and documentation of outcomes. They have been particularly successful in resolving disputes in sectors characterised by high transaction volumes and digital interactions, such as e-commerce, fintech, insurance, and MSMEs. By leveraging technology, private platforms can handle large numbers of disputes efficiently, offering speed and convenience that traditional mechanisms often lack. Their operational success has demonstrated the practical viability of ODR and has contributed significantly to its visibility and acceptance.

At the same time, the growing prominence of private ODR platforms raises important institutional and normative concerns. Unlike courts or statutory tribunals, private platforms operate primarily through contractual arrangements and self-regulation. This raises questions about accountability, neutrality, and consistency of procedural standards. The absence of formal accreditation or regulatory oversight mechanisms creates the risk of uneven quality and potential conflicts of interest. From an institutional perspective, balancing innovation and efficiency with public accountability is a central challenge in integrating private ODR platforms into the broader justice system.

Arbitral and mediation institutions also play a significant role in shaping ODR practices. Established institutions bring procedural expertise, trained neutrals, and institutional credibility to the dispute resolution process. Many such institutions have begun to incorporate digital tools into their operations, conducting online hearings and managing cases through electronic platforms. Their involvement enhances trust in ODR, particularly for complex or high-stakes disputes. Institutional rules and guidelines can provide clarity on issues such as confidentiality, data protection, and enforceability. However, institutional adoption of ODR varies widely, and some institutions remain cautious due to concerns about technological reliability, training costs, and resistance from practitioners.

The role of **legal professionals**, including advocates, arbitrators, and mediators, is another critical factor influencing the adoption and effectiveness of ODR. Legal professionals act as intermediaries between disputing parties and dispute resolution mechanisms, shaping perceptions and choices. While some practitioners have embraced ODR as an opportunity to enhance efficiency and expand their professional reach, others remain sceptical. Resistance may stem from unfamiliarity with technology, concerns about diminished advocacy roles, or apprehensions regarding procedural informality. Capacity-building and training are therefore essential to equip legal professionals with the skills and confidence required to engage effectively with ODR in the digital era.

Disputing **parties and users** are central stakeholders whose acceptance ultimately determines the success of ODR. User perceptions of fairness, neutrality, and effectiveness significantly influence willingness to participate in online processes. For businesses and digitally literate individuals, ODR offers tangible benefits in terms of speed and cost-efficiency. However, for users with limited digital access or literacy, ODR may appear intimidating or exclusionary. Institutional frameworks must therefore prioritise user-centric design, incorporating features such as multilingual interfaces, simplified procedures, and technical support to enhance accessibility and trust.

Collaboration among stakeholders is essential for building a cohesive and sustainable ODR ecosystem. Fragmented efforts by individual actors may result in duplication, inconsistency, and inefficiency. Coordinated initiatives involving courts, government agencies, private platforms, and professional bodies can facilitate standard-setting, knowledge-sharing, and capacity-building. Hybrid models, such as court-annexed ODR programmes implemented in

partnership with private platforms, offer promising pathways for combining public oversight with private innovation. Such models can enhance legitimacy while retaining the flexibility and efficiency that characterise ODR.

Despite these opportunities, institutional challenges remain significant. The lack of clear delineation of roles and responsibilities can create uncertainty and conflict among stakeholders. Institutional capacity constraints, including limited technical infrastructure and human resources, may hinder large-scale adoption. Addressing these challenges requires sustained institutional commitment, regulatory clarity, and strategic planning.

In conclusion, the institutional framework shaping ODR in India is characterised by diversity, experimentation, and evolving collaboration. Multiple stakeholders contribute to the development and implementation of ODR, each bringing distinct perspectives and priorities. For ODR to mature as a credible and inclusive dimension of ADR in the digital era, these stakeholders must operate within a coherent institutional framework that balances innovation with accountability, efficiency with fairness, and private initiative with public oversight.

Challenges and Limitations of Online Dispute Resolution in the Digital Era

While Online Dispute Resolution (ODR) has emerged as a promising evolution of Alternative Dispute Resolution (ADR) in the digital era, its adoption in India is accompanied by a range of structural, legal, technological, and normative challenges. These challenges are not merely transitional difficulties associated with technological change; rather, they raise fundamental questions about fairness, accessibility, legitimacy, and the role of justice institutions in a digitally mediated environment. A critical examination of these limitations is essential to assess whether ODR can function as an equitable and sustainable dispute resolution mechanism in India.

One of the most significant challenges confronting ODR in India is the **digital divide**, which reflects deep socio-economic inequalities in access to technology. Although India has witnessed substantial growth in internet penetration and smartphone usage, access to reliable digital infrastructure remains uneven. Rural populations, economically weaker sections, and marginalised communities often lack consistent internet connectivity, digital devices, or the skills required to navigate online platforms. This disparity raises serious concerns regarding access to justice, as ODR may primarily benefit urban, educated, and commercially

sophisticated users. If ODR becomes a dominant mode of dispute resolution without adequate safeguards, it risks excluding precisely those groups for whom access to justice is already limited.

Closely linked to the digital divide is the issue of **digital literacy and user competence**. Effective participation in ODR requires more than mere access to technology; it demands familiarity with digital interfaces, online communication tools, and procedural workflows. For many litigants, particularly individuals unaccustomed to formal legal processes, navigating online dispute resolution platforms can be intimidating and confusing. The absence of face-to-face interaction may exacerbate feelings of disempowerment, particularly when parties are required to articulate claims, upload documents, or engage in negotiations through unfamiliar digital systems. Without adequate user support and guidance, ODR risks undermining the very objective of accessibility it seeks to promote.

Procedural fairness and due process constitute another major area of concern in the ODR context. Traditional dispute resolution mechanisms rely heavily on physical presence, allowing adjudicators, mediators, or arbitrators to observe non-verbal cues, manage power imbalances, and ensure meaningful participation. In online environments, these elements may be diminished or distorted by technological constraints such as poor connectivity, limited audio-visual quality, or asynchronous communication. There is a risk that disparities in digital proficiency or access may translate into substantive disadvantages for certain parties, thereby undermining the principle of equality of arms that lies at the heart of fair dispute resolution.

The **voluntary nature of ADR**, which underpins its legitimacy, is also challenged in the digital era. Many ODR mechanisms operate through standard-form contracts, particularly in e-commerce, digital services, and platform-based transactions. These contracts often contain mandatory ODR clauses, effectively compelling users to resolve disputes through online platforms. Such arrangements raise concerns regarding informed consent and bargaining power, especially where consumers lack meaningful alternatives. When participation in ODR is imposed rather than chosen, the consensual ethos of ADR may be compromised, raising questions about the fairness and legitimacy of outcomes.

Another critical limitation relates to the **enforceability of ODR outcomes**, particularly those arising from online mediation and negotiation. While arbitral awards rendered through online

proceedings are generally enforceable under existing arbitration law, settlement agreements reached through online mediation often rely on contractual enforcement. In the absence of explicit statutory recognition, parties may face difficulties in enforcing such agreements, particularly where power imbalances or non-compliance arise. This uncertainty undermines confidence in ODR and discourages its use for disputes involving higher stakes or complex legal issues.

Data protection, confidentiality, and cybersecurity pose significant challenges in the ODR environment. Dispute resolution processes frequently involve sensitive personal, financial, or commercial information. Online platforms store and transmit this data, making it vulnerable to cyberattacks, unauthorised access, or misuse. While confidentiality is a core principle of ADR, ensuring its preservation in digital environments requires robust technological safeguards and clear legal standards. The absence of ODR-specific regulatory guidance on data protection and liability creates uncertainty and erodes user trust.

The lack of **regulatory oversight and standardisation** further complicates the ODR landscape in India. Many ODR platforms operate as private entities with proprietary technologies and self-defined procedures. While this allows for innovation and flexibility, it also results in variability in procedural standards, quality of neutrals, and transparency. Without accreditation mechanisms or minimum standards, there is a risk that some platforms may prioritise efficiency or commercial interests over fairness and neutrality. This fragmentation undermines the development of a coherent and trustworthy ODR ecosystem.

Jurisdictional complexities present additional challenges, particularly in disputes involving parties located in different states or countries. Traditional jurisdictional principles are rooted in territorial concepts such as place of residence or cause of action. Applying these principles to disputes resolved through online platforms can be problematic, creating uncertainty regarding applicable law, competent courts, and enforcement forums. Such uncertainty may deter parties from engaging in ODR, especially in cross-border disputes, limiting its potential as a global dispute resolution mechanism.

Cultural and professional resistance also affects the adoption of ODR in India. Many litigants and legal professionals continue to associate justice with physical courtrooms and formal procedures. The perceived informality of online processes may be viewed as undermining the

seriousness or legitimacy of dispute resolution. Legal professionals, in particular, may resist ODR due to concerns about diminished advocacy roles or unfamiliarity with technology. Overcoming these cultural barriers requires sustained awareness-building, training, and institutional endorsement.

Finally, concerns regarding the **privatisation of justice** merit careful consideration. As private ODR platforms assume a greater role in dispute resolution, questions arise about the shifting boundaries between public and private justice. While private mechanisms can enhance efficiency, excessive reliance on private platforms may dilute public oversight and accountability. Ensuring that ODR complements rather than replaces public justice institutions is essential to preserving the normative foundations of the legal system.

In conclusion, while ODR offers significant promise as an evolution of ADR in the digital era, its adoption in India is constrained by a complex set of challenges and limitations. These challenges span technological, legal, social, and institutional dimensions, underscoring the need for a holistic and cautious approach to reform. Recognising and addressing these limitations is essential to ensuring that ODR develops as an equitable, legitimate, and sustainable component of India's dispute resolution framework.

Future Prospects and Reform Measures for ODR in the Digital Era

The future of Alternative Dispute Resolution in the digital era is inextricably linked to the manner in which Online Dispute Resolution (ODR) is conceptualised, regulated, and institutionalised within the Indian legal system. While ODR has already demonstrated its potential as an efficient and scalable dispute resolution mechanism, its long-term success depends on deliberate and coordinated reform measures. This subsection examines the future prospects of ODR in India and proposes legal, institutional, and policy reforms necessary to strengthen its role as a credible and equitable dimension of ADR.

One of the most significant future prospects of ODR lies in its ability to **reduce judicial burden and enhance systemic efficiency**. Indian courts continue to grapple with an enormous backlog of cases, many of which involve disputes that could be effectively resolved through consensual mechanisms. ODR can serve as a first-tier dispute resolution mechanism, particularly for low-value, high-frequency disputes arising from digital transactions, consumer contracts, and MSME operations. By resolving such disputes at an early stage, ODR can

prevent escalation into formal litigation, thereby conserving judicial resources and enabling courts to focus on complex and precedent-setting cases.

The integration of ODR into **pre-litigation and court-annexed ADR frameworks** represents a critical reform opportunity. Courts can play a proactive role by referring suitable disputes to online mediation or arbitration before admitting them for adjudication. Court-annexed ODR programmes can combine judicial legitimacy with technological efficiency, enhancing public trust in online processes. Establishing dedicated ODR cells within courts, supported by trained personnel and technological infrastructure, can facilitate systematic implementation. Such institutional integration would signal that ODR is not a peripheral innovation but a core component of the justice delivery system in the digital era.

Legislative reform is central to the sustainable growth of ODR in India. While existing ADR laws provide a degree of flexibility, the absence of explicit statutory recognition creates uncertainty and inconsistency. One reform option is the enactment of a comprehensive ODR legislation that defines the scope, procedures, and enforceability of online dispute resolution mechanisms. Such legislation could establish minimum procedural standards, ensure enforceability of online mediation settlements, and provide accreditation frameworks for ODR platforms. Alternatively, targeted amendments to existing statutes such as expressly recognising online mediation and providing statutory backing to mediated settlements may offer a more incremental and adaptable approach. The choice of reform model must balance regulatory clarity with the need to preserve innovation and flexibility.

The development of **regulatory standards and accreditation mechanisms** is another critical reform measure. Establishing uniform standards for procedural fairness, neutrality, confidentiality, and data protection can enhance the credibility of ODR platforms. Accreditation of ODR service providers, whether through judicial bodies, statutory regulators, or professional associations, can ensure compliance with minimum quality benchmarks. Such mechanisms can address concerns relating to accountability and consistency without stifling technological innovation. Importantly, regulatory standards must be transparent and inclusive, allowing diverse stakeholders to participate in the ODR ecosystem.

Addressing the **digital divide** is essential to ensuring that ODR contributes to, rather than undermines, access to justice. Future reforms must prioritise the expansion of digital

infrastructure and digital literacy, particularly in rural and underserved areas. ODR platforms should be designed with accessibility in mind, incorporating multilingual interfaces, low-bandwidth functionality, and user-friendly design. Hybrid models that combine online processes with offline support such as facilitation through legal aid centres or community institutions can help bridge the gap between technological capability and user needs. Without such inclusive measures, ODR risks reinforcing existing socio-economic inequalities.

Capacity-building among legal professionals is another key determinant of ODR's future. Lawyers, arbitrators, and mediators play a crucial role in shaping user perceptions and adoption of dispute resolution mechanisms. Training programmes focusing on online advocacy, digital ethics, and technology-enabled dispute resolution can equip legal professionals with the skills necessary to operate effectively in online environments. Integrating ODR-related modules into legal education and continuing professional development can foster a culture of adaptability and innovation within the legal profession.

Technological innovation will continue to shape the future of ODR, particularly through advances in **artificial intelligence and automation**. AI-driven tools can assist in case triage, document management, and even settlement facilitation, enhancing efficiency and scalability. However, the adoption of such technologies must be guided by ethical principles and legal safeguards to prevent bias, opacity, and over-reliance on automated decision-making. Transparency and human oversight are essential to maintaining trust and ensuring that technology serves as an aid rather than a substitute for human judgment.

Public awareness and **user trust** are equally important for the long-term viability of ODR. Many potential users remain unfamiliar with ODR or sceptical of its legitimacy. Awareness campaigns, pilot programmes, and dissemination of best practices can help demonstrate the effectiveness and reliability of online dispute resolution. Clear communication regarding rights, procedures, and remedies is essential to ensuring informed consent and meaningful participation. Feedback mechanisms can further enhance trust by enabling continuous improvement of ODR services.

From a constitutional perspective, future reforms must ensure that ODR remains aligned with principles of **access to justice, equality, and due process**. ODR should be positioned as a complementary mechanism that expands choice rather than restricts access to courts.

Safeguards must be in place to ensure voluntariness, procedural fairness, and the right to judicial review where necessary. Judicial oversight, exercised in a proportionate and non-intrusive manner, can help preserve constitutional values while respecting the autonomy and efficiency of ODR processes.

In conclusion, the future of ADR in the digital era depends significantly on how ODR is developed and institutionalised in India. ODR offers a powerful opportunity to modernise dispute resolution, enhance access to justice, and align legal processes with the realities of a digital society. Realising this potential requires a comprehensive reform agenda encompassing legislation, institutional integration, regulatory standards, technological safeguards, and inclusive design. If guided by constitutional values and informed by practical experience, ODR can emerge as a resilient and transformative component of India's dispute resolution framework in the digital age.

Conclusion

The digital transformation of society has fundamentally reshaped the nature of disputes and the expectations placed upon justice delivery mechanisms. In this changing landscape, Alternative Dispute Resolution (ADR) in India is no longer confined to traditional, physically grounded processes but is evolving to accommodate the realities of a digitally mediated world. This research has examined the emergence of Online Dispute Resolution (ODR) as a defining feature of ADR in the digital era, analysing its conceptual foundations, legal framework, institutional dynamics, challenges, and future prospects within the Indian context. The analysis reveals that ODR represents both an opportunity and a responsibility for the Indian legal system: an opportunity to enhance access to justice and efficiency, and a responsibility to ensure fairness, inclusiveness, and constitutional integrity.

ADR was originally conceived as a corrective to the limitations of adversarial litigation, particularly delay, cost, and procedural rigidity. Over time, however, even traditional ADR mechanisms have struggled to fully overcome these constraints, often replicating the inefficiencies of court-based processes. The rise of digital transactions, platform-based services, and online interactions has further exposed the inadequacy of purely offline dispute resolution mechanisms. ODR emerges in this context as a logical and necessary evolution of ADR, offering processes that are more closely aligned with the nature of contemporary disputes. By leveraging technology, ODR redefines the spatial and temporal dimensions of

dispute resolution, enabling parties to resolve disputes efficiently without the constraints of physical presence.

This research demonstrates that ODR is conceptually rooted in the foundational principles of ADR, including party autonomy, flexibility, confidentiality, and consensual resolution. Rather than undermining these principles, technology has the potential to enhance them by reducing transaction costs, facilitating early engagement, and enabling scalable dispute resolution. At the same time, ODR introduces new procedural possibilities such as asynchronous communication and digital case management that challenge traditional assumptions about how justice must be delivered. Recognising ODR as an evolutionary rather than revolutionary development is essential to understanding its legitimacy within the Indian legal system.

From a legal perspective, the study highlights that India's existing ADR framework provides a partial but insufficient foundation for ODR. Statutes such as the Arbitration and Conciliation Act, 1996 and provisions like Section 89 of the Code of Civil Procedure, 1908 offer flexibility that allows online processes to function within their ambit, particularly in the context of arbitration. Judicial acceptance of virtual hearings and electronic evidence further reinforces the adaptability of procedural law to technological change. However, the absence of explicit statutory recognition for ODR especially online mediation and negotiation creates uncertainty regarding enforceability, procedural standards, and oversight. This regulatory ambiguity limits the confidence of users and institutions, underscoring the need for legal clarity.

The institutional analysis undertaken in this research underscores the central role of stakeholders in shaping the trajectory of ODR in India. The judiciary, through its endorsement of ADR and digital processes, provides legitimacy and direction. Policy-making bodies have contributed by framing ODR as a tool for improving access to justice and ease of doing business. Private ODR platforms have demonstrated innovation and operational efficiency, particularly in resolving high-volume digital disputes. Legal professionals and users, in turn, influence adoption through their perceptions and participation. While this multi-stakeholder ecosystem has enabled rapid experimentation, it has also resulted in fragmentation and uneven standards, highlighting the need for coordination and institutional coherence.

A critical contribution of this research lies in its examination of the challenges and limitations of ODR. The digital divide remains the most significant obstacle to equitable adoption, raising

concerns that ODR may benefit digitally empowered users while excluding marginalised communities. Issues of procedural fairness, informed consent, data protection, and confidentiality assume heightened importance in online environments. Jurisdictional uncertainty and the growing role of private platforms raise normative questions about accountability and the privatisation of justice. These challenges illustrate that technological efficiency cannot be pursued at the expense of fairness and inclusion.

Despite these limitations, the research affirms that ODR holds considerable promise as a complementary mechanism within India's justice delivery system. Its potential to resolve low-value, high-frequency disputes efficiently makes it particularly well-suited to the digital economy. When integrated into pre-litigation and court-annexed frameworks, ODR can significantly reduce judicial burden while preserving the right to judicial recourse. Importantly, ODR should not be viewed as a substitute for courts or traditional ADR mechanisms but as an additional option that expands the spectrum of dispute resolution choices available to parties. The future of ODR in India depends on a balanced and inclusive reform agenda. Legislative intervention whether through standalone ODR legislation or targeted amendments to existing laws is essential to provide legal certainty and enforceability. Institutional integration within the judicial system can enhance legitimacy and public trust, while accreditation and standard-setting can address concerns regarding private platforms. Capacity-building among legal professionals and digital literacy initiatives among users are critical to fostering acceptance and effective participation. Equally important is the need to design ODR systems that are accessible, user-centric, and sensitive to India's socio-economic diversity.

From a constitutional standpoint, the research underscores that ODR must remain aligned with principles of access to justice, equality, and due process. Efficiency and convenience, while important, cannot override the fundamental rights of disputing parties. Safeguards ensuring voluntariness, fairness, transparency, and the availability of judicial oversight are essential to maintaining constitutional legitimacy. When guided by these values, ODR can serve as an instrument of inclusion rather than exclusion.

In conclusion, ADR in the digital era is incomplete without recognising the transformative role of Online Dispute Resolution. ODR represents a necessary adaptation of dispute resolution mechanisms to the realities of a digital society, offering new possibilities for efficiency, accessibility, and user-centric justice. While challenges remain, they are not insurmountable.

With thoughtful legal reform, institutional support, and a commitment to constitutional values, ODR can emerge as a resilient and integral component of India's dispute resolution framework. This research thus concludes that the emergence of ODR marks a significant step in the evolution of ADR in India one that holds the potential to redefine access to justice in the digital age.

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